

# City Council Agenda

Council President  
Clinton J. Olivier

Councilmembers

Oliver L. Baines III  
Andreas Borgeas  
Lee Brand

Sal Quintero  
Larry Westerlund  
Blong Xiong – Acting President

City Manager  
Mark Scott

City Clerk  
Yvonne Spence, CMC

City Attorney  
James C. Sanchez

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

The City Council welcomes you to the Council Chambers, located in City Hall, 2<sup>nd</sup> Floor, 2600 Fresno Street, Fresno CA 93721.

## February 16, 2012

### 1:00 P.M. ROLL CALL

Invocation

Pledge of Allegiance to the Flag

### Ceremonial Presentations:

Proclamation of "TEEN DATING VIOLENCE AWARENESS MONTH" – Mayor's Office – **Read and presented**

Proclamation of "[CENTRAL VALLEY FREEDOM WEEK](#)" – Mayor's Office and All Councilmembers – **Read and presented**

The agenda and related staff reports are available on ([www.fresno.gov](http://www.fresno.gov)) as well as in the Office of the City Clerk. The Council meeting can also be heard live at the same web site address, and viewed live on Cable Channel 96 from 8:30 a.m. and re-played beginning at 8:00 p.m.

**PROCESS:** For each matter considered by the Council there will first be a staff presentation followed by a presentation from the involved individuals, if present. Testimony from those in attendance will then be taken. All testimony will be limited to three minutes per person. If you would like to speak fill out a Speaker Request Form available from the City Clerk's Office and in the Council Chambers. The three lights on the podium next to the microphone will indicate the amount of time remaining for the speaker.

The green light on the podium will be turned on when the speaker begins. The yellow light will come on with one minute remaining. The speaker should be completing the testimony by the time the red light comes on and tones sound, indicating that time has expired. A countdown of time remaining to speak is also displayed on the large screen behind the Council dais.

Following is a general schedule of items for Council consideration and action. The City Council may consider and act on an agenda item in any order it deems appropriate. Actual timed items may be heard later but not before the time set on agenda. Persons interested in an item listed on the agenda are advised to be present throughout the meeting to ensure their presence when the item is called.

Approve Council minutes of February 9, 2012

**Action Taken:** Approved

Councilmember Reports and Comments

**Action Taken:** Reports made

Approve Agenda

**Action Taken:** Approved, as amended

Adopt Consent Calendar

**Action Taken:** Adopted

1. **CONSENT CALENDAR**

All Consent Calendar items are considered to be routine and will be treated as one agenda item. The Consent Calendar will be enacted by one motion. Public comment on the Consent Calendar is limited to three (3) minutes per speaker. There will be no separate discussion of these items unless requested by a Councilmember, in which event the item will be removed from the Consent Calendar and will be considered as time allows.

A. **RESOLUTION** - Of intention to annex Final Parcel Map No. 2010-09, Annexation No. 2, to City of Fresno Community Facilities District No. 9 (**Property located in District 1**) (north east corner of N. Blythe and W. Ashlan Avenues) and to authorize the levy of special taxes – Public Works Department

**Action Taken:** Resolution No. 2012-22 adopted

B. Approve the appointments of Robert Macias to the Historic Preservation Commission – the Mayor's Office; and Karla P. Martinez to the Transit Rate and Service Committee – Councilmember Quintero

**Action Taken:** Approved

C. **RESOLUTION** - Approving the Final Map of Tract No. 5973 located within Copper River Ranch and accepting the dedicated public uses offered therein and to authorize the Public Works Director, Public Utilities Director and the Development and Resource Management Director to execute the subdivision agreement and covenants on behalf of the City (**Property located in District 6**) – Development and Resource Management Department

**Action Taken:** Resolution No. 2012-23 adopted

D. Approve reimbursement agreement with the Fresno Metropolitan Flood Control District (FMFCD) for the installation of master plan facilities along the Veterans Home frontage in California Avenue and Marks Avenue (**Property located in District 3**) – Public Works Department

**Action Taken:** Approved

E. Documents pertaining to the Fresno Street and El Paso Avenue installation of 14" water main (**Property located in District 6**) – Public Works Department

1. Adopt finding of Class 3 Categorical Exemption, pursuant to Section 15303(d) of the CEQA Guidelines, for the Fresno Street and El Paso Avenue installation of 14" water main

**Action Taken:** Adopted

2. Award a construction contract in the amount of \$194,213 for the base bid plus add Alternate 1, to West Valley Construction Company Inc., of San Jose, California, for the Fresno Street and El Paso Avenue installation of 14" water main

**Action Taken:** Awarded

1. **CONSENT CALENDAR CONTINUED**

- F. Acceptance of Proposition 40 contract extension from the State of California Department of Parks and Recreation - PARCS  
**Action Taken:** Accepted
- G. Authorize Amendment No. 2 for professional engineering and related environmental support services with ERM Remediation & Construction Management West, Inc. to provide on-going professional engineering, environmental and remedial actions concerning ground water contamination emanating from Fresno Yosemite International Airport not to exceed \$299,200 – Airports Department  
**Action Taken:** Authorized
- H. **RESOLUTION** - Revising the Disadvantaged Business Enterprise (DBE) Program for federally assisted contracts; and rescinding Resolution 2000-248 – Finance Department  
**Action Taken:** Resolution No. 2012-24 adopted

**CONTESTED CONSENT CALENDAR**

1:15 P.M. **GENERAL ADMINISTRATION**

- A. Documents pertaining to the Shaw Avenue Intelligent Transportation Systems (ITS) (State Route 99 to State Route 41) *(Property located in Districts 1, 2, and 4)* – Public Works
1. Adopt finding of a Categorical Exemption per staff determination, pursuant to Section 15301, 15303, 15304 of the CEQA Guidelines, for the Shaw Avenue Intelligent Transportation Systems (ITS) (State Route 99 to State Route 41)
  2. Award a contract in the amount of \$3,414,199 to Audeamus DBA Sebastian for the Shaw Avenue Intelligent Transportation Systems (ITS) (State Route 99 to State Route 41)  
**Action Taken:** Adopted and awarded
- B. Documents pertaining to the Ted C. Wills Rehabilitation Project – *(Property located in District 3)* - Public Works Department
1. **RESOLUTION** - Accepting a grant of \$849,500 from the Department of Housing and Community Development- Housing Related Park Program (Prop 1C), and authorizing the Assistant City Manager/Interim Parks, After School, Recreation and Community Services Director to submit all necessary documents associated with the Ted C. Wills Rehabilitation Project  
**Action Taken:** Resolution No. 2012-25 adopted
  2. \* **RESOLUTION** - 46th amendment to the Annual Appropriation Resolution (AAR) No. 2011-133 appropriating \$550,000 of Proposition 1C Funds in the Parks, After School, Recreation and Community Services Department for the Ted C. Wills Rehabilitation Project *(Requires 5 affirmative votes)*  
**Action Taken:** Resolution No. 2012-26 adopted
  3. Adopt finding that this project for the Ted C. Wills Rehabilitation Project was environmentally assessed under EA-P-2009-02 and that a Mitigated Negative Declaration was properly adopted for the project and that no new information or circumstances exist or changes proposed that would require new or additional environmental work pursuant to California Environmental Quality Act Guideline Section 15162  
**Action Taken:** Adopted
  4. Award a construction contract in the amount of \$827,318.00, including the base bid plus add Alternates 1, 2, 3, 4, 5, 6, and 7, to MCC Construction Corporation (Fresno), for the construction of the Ted C. Wills Rehabilitation Project  
**Action Taken:** Awarded

1:30 P.M. **CITY COUNCIL**

- A. **RESOLUTION** – Amending Resolution No. 2010-197 relating to the policy establishing the Council Residency Act – Councilmember Brand  
**Action Taken:** Resolution No. 2012-27 adopted, as amended, changing effective date to 3/14/2012

## **SCHEDULED COUNCIL HEARINGS AND MATTERS**

- 2:00 P.M.**      **HEARING** to consider the formation of a Special Tax District (Community Facilities District No. 16) for the maintenance of certain public improvements associated with the Universally Accessible Park (*Property located in District 1*) – Public Works Department  
**Action Taken:**    Continued to 3/1/2012 @ 2:00 p.m.
- a.      **RESOLUTION** – Of formation establishing a Special Tax District (Community Facilities District No. 16) for the maintenance of certain public improvements associated with the Universally Accessible Park, determining the validity of prior proceedings, and taking related actions
  - b.      **RESOLUTION** – Calling special mailed ballot election and setting April 16, 2012 as the election day

## **CLOSED SESSION**

- A.      CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION** - Government Code Section 54956.9, Subdivision (a)
- 1. **Case Name:**    City of Fresno v. Chevron USA et al. MDL 1358; CV-04973 (SAS)
  - 2. **Case Name:**    City of Fresno v. AIG Financial Products Corp., et al. Case No. 08-7355 S.D.N.Y
- Action Taken:**    Held
- B.      CONFERENCE WITH LEGAL COUNSEL – DECIDING WHETHER TO INITIATE LITIGATION** - Government Code Section 54956.9, Subdivision (c)
- 1. **Case Name:**    City of Fresno v. Dae Song and Sook Kyung Lee, Song Ho and Eun Min Kim, Nam Ho and Sun Sil Paik (Gottschalks Building)
- Action Taken:**    Litigation to be initiated based on breach of contract and unlawful detainer
- C.      CONFERENCE WITH LEGAL COUNSEL – DECIDING WHETHER TO INITIATE OR INTERVENE IN LITIGATION** - Government Code Section 54956.9, Subdivision (c)
- 1. **Case Name:**    City of Fresno v. State of California, Auditor-Controller of the County of Fresno, and real party in interest Successor Agency to the Redevelopment Agency of the City of Fresno / Redevelopment Agency of the City of Fresno; and City of Cerritos v. State of California, et al., Sacramento Superior Court Case No. 34-2011-80000952
- Action Taken:**    Laid over
- D.      CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION** - Government Code Section 54956.9, Subdivision (b)
- Significant Exposure to Litigation:**
- 1. **Potential litigation:**    Darling International, Inc. v. City of Fresno
- Action Taken:**    Held

**PLEASE NOTE: SCHEDULED AND UNSCHEDULED COMMUNICATIONS ARE NOT TIMED AND MAY BE HEARD ANY TIME DURING THE MEETING**

## **SCHEDULED COMMUNICATION –**

**UNSCHEDULED COMMUNICATION** – Members of the public may address the Council regarding items that are not listed on the agenda and within the subject matter jurisdiction of the Council. Each person is limited to a three (3) minute presentation. Anyone wishing to be placed on an agenda for a specified topic should contact the City Clerk's Office at least ten (10) days prior to the desired date. Council action on unscheduled items, if any, shall be limited to referring the item to staff for a report and possible scheduling on a future Council agenda.

**SCHEDULED COUNCIL HEARINGS AND MATTERS**

Mar.	1 –	2:00 P.M.	<b>CONTINUED HEARING</b> to consider the formation of a Special Tax District (Community Facilities District No. 16) for the maintenance of certain public improvements associated with the Universally Accessible Park <b>(Property located in District 1)</b> – Public Works Department
Mar.	8 –	10:00 A.M.	<b>HEARING</b> to adopt resolution of intention to annex Final Parcel Map No. 2010-09, Annexation No. 2, to City of Fresno Community Facilities District No. 9 (north east corner of N. Blythe and W. Ashlan Avenues)
Mar.	8 –	10:15 A.M.	<b>HEARING</b> re: Rezone Application No. R-11-016, filed by William Gavello
Mar.	8 –	5:00 P.M.	<b>HEARING</b> re: Zack's Market, ABC Conditional Use Permit No. C-11-028 <b>(Property located in District 3)</b>
Mar.	15 –	NO MEETING	RECESS
Mar.	22 –	8:30 A.M.	MEETING
Mar.	28 – (Weds)	2:00 P.M.	Presentation of Employee Service Awards – <b>(Reception immediately following – 2<sup>nd</sup> floor foyer)</b>
Mar.	29 –	8:30 A.M.	MEETING